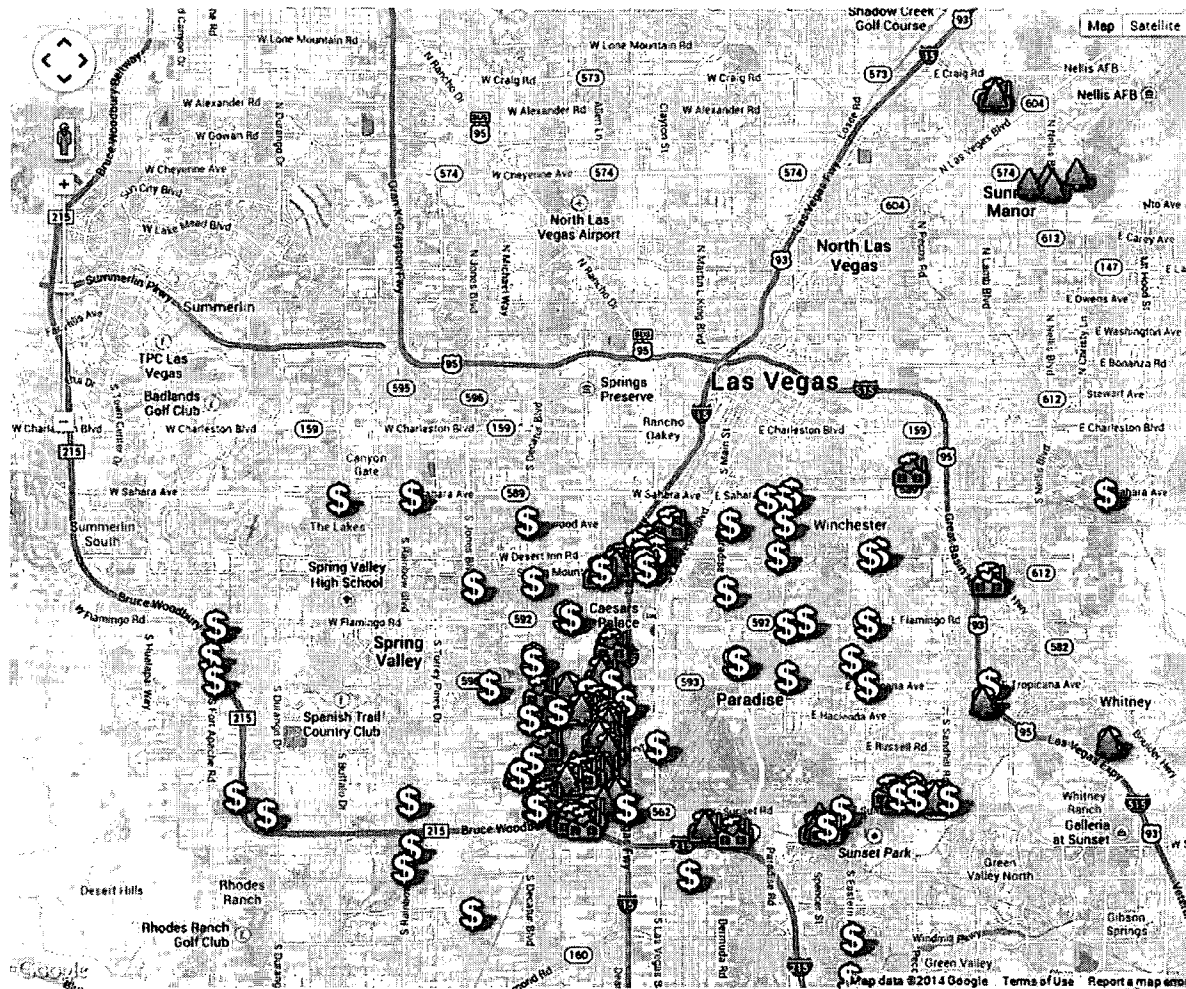


Delivery to nonresident medical marijuana patients?

Presentation by Maggie McLetchie, Langford McLetchie LLC,
to August 21, 2014, meeting of the Advisory Commission on
the Administration of Justice's Subcommittee on the Medical
Use of Marijuana.

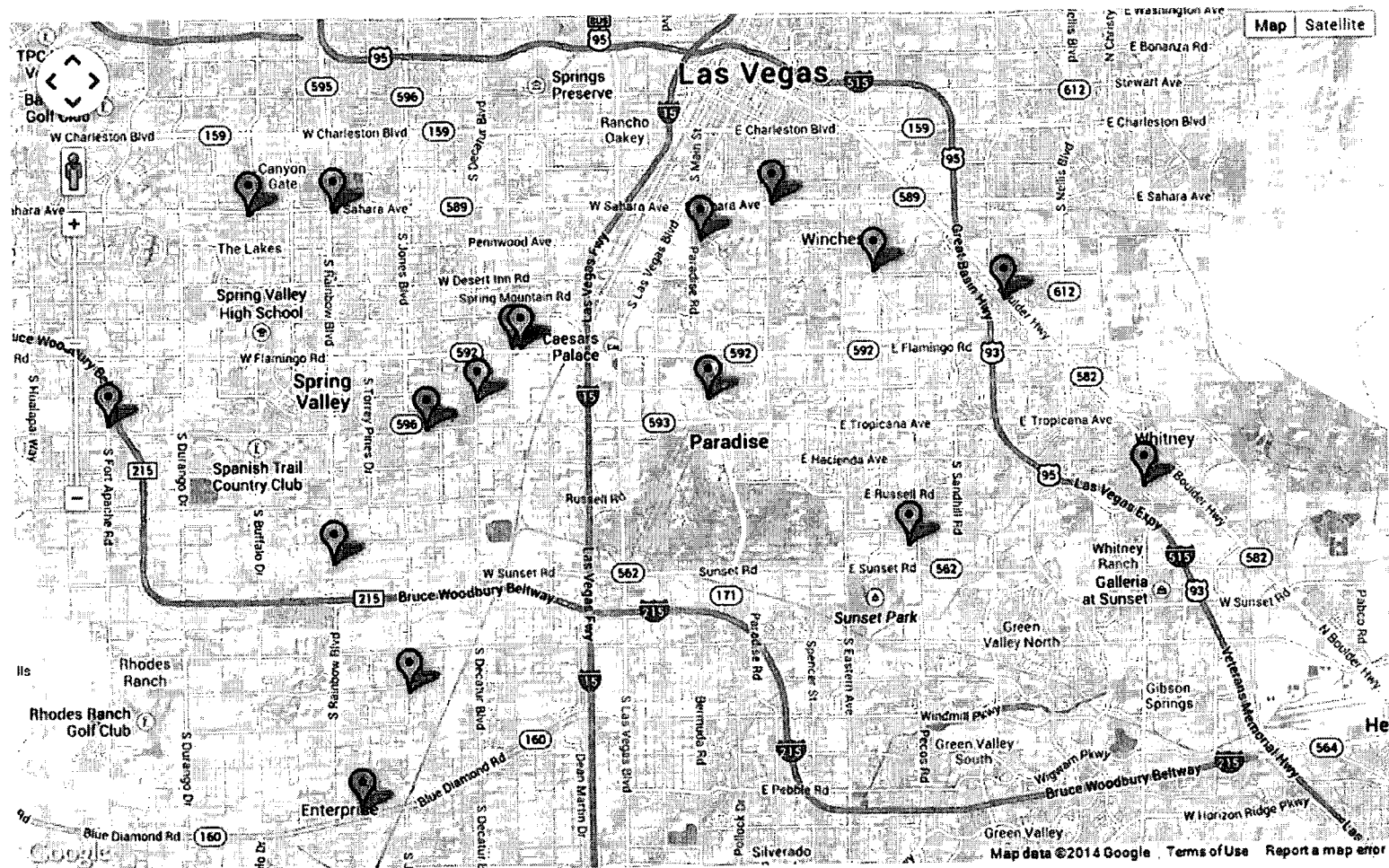
In Clark County, there were 79 applications for dispensaries.

The proposed dispensary sites are illustrated on this Las Vegas Review-Journal map with dollar sign icons:



Map is from: "Medical Marijuana Business Applicants," available at: <http://www.reviewjournal.com/pot-map> (last checked 8/19/14).

In the end, the Board of Clark County Commissioners, which considered applications by township, approved 18 dispensaries:



Map is from: "Medical Marijuana Business Applicants," available at: <http://www.reviewjournal.com/pot-map> (last checked 8/19/14).

For the most part, the sites chosen by the BCC were not “strip-centric.” But what were the possible reasons for so many applications near the Strip? What are the rules about serving non-resident cardholders?

THE CURRENT LEGAL LAY OF THE LAND: No Delivery to Nonresidents.

SB 374 allows dispensaries to serve nonresident card holders. NRS 453A.364. However, the regulations do not allow dispensaries to deliver to nonresident cardholders. AR, Sec. 58 provides:

- 1. A medical marijuana establishment agent authorized by the medical marijuana establishment for which he or she is employed or volunteers may transport marijuana, paraphernalia, edible marijuana products and marijuana-infused products between the medical marijuana establishment and:***
- (a) Another medical marijuana establishment; and***
 - (b) A person who holds a valid registry identification card or his or her designated primary caregiver.***

(“AR” refers to the regulations adopted by the State Division of Public and Behavioral Health of the Department of Health and Human Services (the “Division”) approved regulations with an effective date of April 1, 2014 (Adopted Regulations R004-14).)

So the question is... SHOULD and can Nevada allow dispensaries to deliver to nonresidents?

The answer may be tied to the verification system for nonresidents.

1. Effective April 2014 through March 31, 2016, the Nevada Revised Statutes allow dispensaries to serve nonresidents that execute an affidavit stating that they are entitled to engage in the medical use of marijuana in their home jurisdictions.

NRS 453A.364 Recognition of nonresident cards. [Effective April 1, 2014, and through March 31, 2016.]

1. The State of Nevada and the medical marijuana dispensaries in this State which hold valid medical marijuana establishment registration certificates will recognize a nonresident card only under the following circumstances:

(a) The state or jurisdiction from which the holder or bearer obtained the nonresident card grants an exemption from criminal prosecution for the medical use of marijuana;

(b) The state or jurisdiction from which the holder or bearer obtained the nonresident card requires, as a prerequisite to the issuance of such a card, that a physician advise the person that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition;

(c) The nonresident card has an expiration date and has not yet expired;

(d) The holder or bearer of the nonresident card signs an affidavit in a form prescribed by the Division which sets forth that the holder or bearer is entitled to engage in the medical use of marijuana in his or her state or jurisdiction of residence; and

(e) The holder or bearer of the nonresident card agrees to abide by, and does abide by, the legal limits on the possession of marijuana for medical purposes in this State, as set forth in NRS 453A.200.

2. For the purposes of the reciprocity described in this section:

(a) The amount of medical marijuana that the holder or bearer of a nonresident card is entitled to possess in his or her state or jurisdiction of residence is not relevant; and

(b) Under no circumstances, while in this State, may the holder or bearer of a nonresident card possess marijuana for medical purposes in excess of the limits set forth in NRS 453A.200.

3. As used in this section, "nonresident card" means a card or other identification that:

(a) Is issued by a state or jurisdiction other than Nevada; and

(b) Is the functional equivalent of a registry identification card, as determined by the Division.

(Added to NRS by 2013, 3713, effective April 1, 2014)

On April 1, 2016, an electronic verification system will be in place.

2. Effective April 1, 2016:

NRS 453A.364 Recognition of nonresident cards. [Effective April 1, 2016.]

1. The State of Nevada and the medical marijuana dispensaries in this State which hold valid medical marijuana establishment registration certificates will recognize a nonresident card only under the following circumstances:

(a) The state or jurisdiction from which the holder or bearer obtained the nonresident card grants an exemption from criminal prosecution for the medical use of marijuana;

(b) The state or jurisdiction from which the holder or bearer obtained the nonresident card requires, as a prerequisite to the issuance of such a card, that a physician advise the person that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition;

(c) The nonresident card has an expiration date and has not yet expired;

(d) The state or jurisdiction from which the holder or bearer obtained the nonresident card maintains a database which preserves such information as may be necessary to verify the authenticity or validity of the nonresident card;

(e) The state or jurisdiction from which the holder or bearer obtained the nonresident card allows the Division and medical marijuana dispensaries in this State to access the database described in paragraph (d);

(f) The Division determines that the database described in paragraph (d) is able to provide to medical marijuana dispensaries in this State information that is sufficiently accurate, current and specific as to allow those dispensaries to verify that a person who holds or bears a nonresident card is entitled lawfully to do so; and

(g) The holder or bearer of the nonresident card agrees to abide by, and does abide by, the legal limits on the possession of marijuana for medical purposes in this State, as set forth in NRS 453A.200.

2. For the purposes of the reciprocity described in this section:

(a) The amount of medical marijuana that the holder or bearer of a nonresident card is entitled to possess in his or her state or jurisdiction of residence is not relevant; and

(b) Under no circumstances, while in this State, may the holder or bearer of a nonresident card possess marijuana for medical purposes in excess of the limits set forth in NRS 453A.200.

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(Added to NRS by 2013, 3713; A 2013, 3728, effective April 1, 2016)

Electronic Database Verification Can Effectively Allow For Delivery to Nonresidents:

- Affidavit execution cannot be performed pre-delivery, but electronic database verification can.
- Shared databases can also be used to ensure that Nevada limits on possession and use are followed.
 - 1/2 ounces of medical marijuana during any one 14-day period as set forth in NRS 453A.200 (or the equivalent for other marijuana products)
- Division will approve States' databases that Nevada dispensaries can rely on.